



Office of the New York State Attorney General Letitia James

Office of Special Investigation

September 29, 2025

Report on the Investigation into the Death of Morgan Salomone

SUMMARY

New York Executive Law Section 70-b (Section 70-b) authorizes the Attorney General's Office of Special Investigation (OSI) to investigate and, if warranted, to prosecute offenses arising from any incident in which the death of a person is caused by a police officer or peace officer. When, as in this case, OSI does not seek charges, Section 70-b requires issuance of a public report detailing its investigation. This is the public report of OSI's investigation of the death of Morgan Salomone, who, on November 22, 2024, in Wantagh, Nassau County, was struck and killed by a car driven by Michael Schwaner, a police officer of the Nassau County Police Department (NCPD).

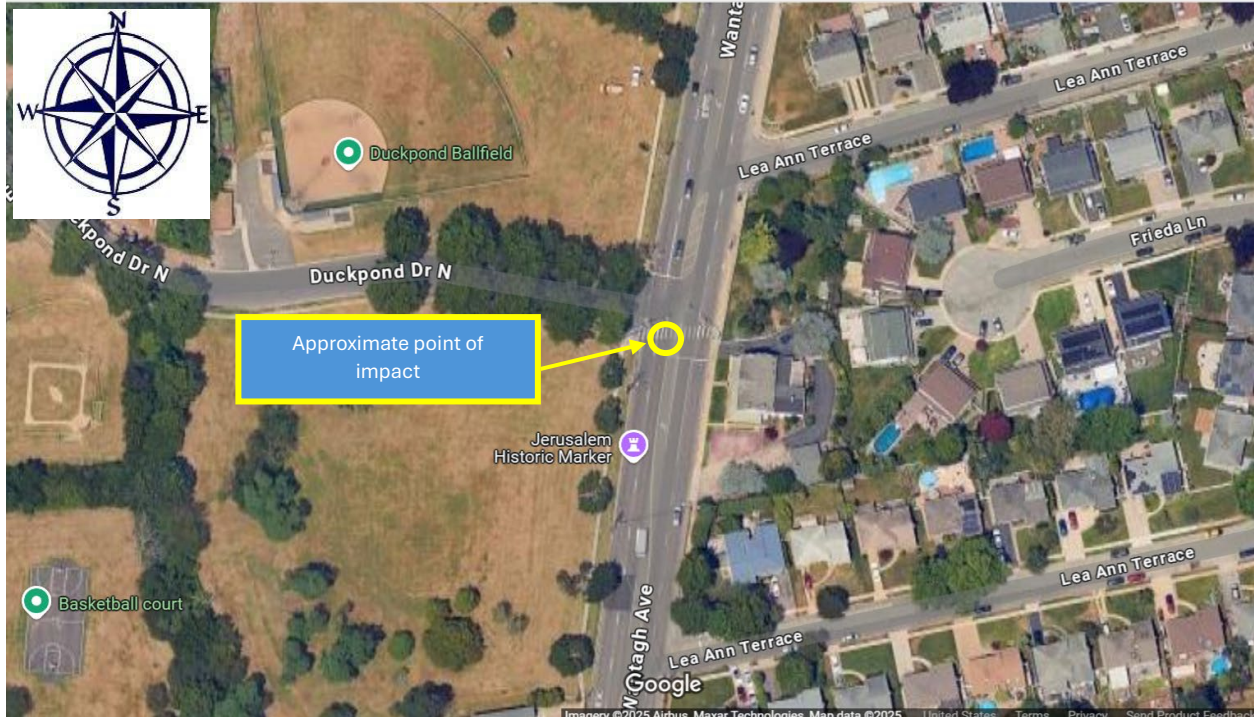
In summary, on November 22, 2024, Officer Schwaner and his partner, Officer Craig Beatty, both assigned to the NCPD Highway Patrol Bureau's Motor Carrier Unit, were in a marked Suburban on Wantagh Avenue, traveling from the Morrelly Homeland Security Center in Bethpage to the Highway Patrol Bureau base in North Bellmore. As Officer Schwaner proceeded through a green traffic light at an intersection, Ms. Salomone was walking against the light across Wantagh Avenue and was struck by the police car. Ms. Salomone was pronounced dead shortly after she arrived at Nassau University Medical Center.

Having thoroughly investigated the facts, including review of residential security videos, and analyzed the law, OSI concludes a prosecutor would not be able to prove beyond a reasonable doubt at trial that Officer Schwaner committed a crime when he caused Ms. Salomone's death. As a result, OSI will not seek charges and closes the matter with this report.

FACTS

The Scene

Wantagh Avenue in the area of the collision had four travel lanes in the main road, two southbound and two northbound, divided by a striped median north of Duckpond Drive N, and a left-turn lane south of Duckpond Drive N. Duckpond Drive N met Wantagh Avenue on the Avenue's west side; it did not continue across on the east side of the Avenue. The partial intersection of the Avenue with Duckpond Drive N was controlled by overhead traffic signals and pedestrian signals, and there was a crosswalk across Wantagh Avenue just south of Duckpond Drive N. The posted speed limit on Wantagh Avenue in this area was 40 mph. On November 22, 2024 the weather conditions were cloudy and rainy. At 6:29 a.m. it was dawn, and the sun had not fully risen.



Aerial view of Wantagh Avenue and in the area of the collision, showing Duckpond Drive N on the left (west) and the north and south outlets of Lea Ann Terrace on the right (east), from Google Maps, Wantagh Avenue and Duckpond Drive.

The Collision

Residential Security Videos

OSI reviewed residential security videos from a private residence near the partial intersection of Wantagh Avenue and Duckpond Drive N. The videos did not have audio, and their timestamps were incorrect. The time on the security system was set one hour and three minutes forward, as evidenced by OSI's review of body-worn camera footage, the dispatch call event chronology report, and the automated vehicle location report. Based on the investigation, OSI uses corrected times in the summary below.

The security videos showed that, on November 22, 2024, at 06:25:13 a.m., Ms. Salomone walked south on Wantagh Avenue and crossed the north outlet of Lea Ann Terrace (on the map above, downward on the right side of Wantagh Avenue); at 06:25:39 a.m. she was on Wantagh Avenue across the road from Duckpond Drive N; at 06:26:01 a.m. she entered the crosswalk onto the northbound lane of Wantagh Avenue (on the map above, crossing Wantagh Avenue from right to left, opposite Duckpond Drive N); at 06:26:03 a.m. the NCPD Suburban drove southbound on Wantagh Avenue, past the north outlet of Lea Ann Terrace (on the map above, downward on the left side); at 06:26:06 a.m. Ms. Salomone, having crossed the two northbound lanes of Wantagh Avenue, entered the southbound lane, and was struck by the Suburban, which propelled her upward before she landed on the hood of the Suburban and fell off onto the roadway; at 06:26:11 a.m. the Suburban came to a

complete stop. The videos showed that the Suburban's turret lights were not activated.

In one of the security videos, a green traffic signal on Wantagh Avenue was visible through a window at the private residence, indicating that Officer Schwaner drove through a green light at Duckpond Drive N. The videos also showed traffic flow consistent with a green traffic signal on Wantagh Avenue at Duckpond Drive N.

OSI created a compilation video of the above-described videos, which may be accessed [here](#).

The traffic control signals at the intersection of Wantagh Avenue and Duckpond Drive N were not equipped with cameras at the time of this incident. The involved Suburban was not outfitted with a dashboard camera.

Emergency Dispatch Call

According to the recorded dispatch call to Highway Patrol Bureau, and the event chronology report, at 6:28:03 a.m. Officer Schwaner contacted his command and requested an ambulance for a "pedestrian struck...just south of the Southern State and Wantagh Avenue." (Wantagh Avenue crosses over the Southern State Parkway at a point just north of the segment of the map included above.)

Body-Worn Camera

Officer Schwaner was equipped with a body-worn camera (BWC) and activated it at 6:29:02 a.m. OSI reviewed the video, which showed Ms. Salomone's body in the roadway, lying face up. Officer Schwaner approached Ms. Salomone, asked Ms. Salomone if she could hear him, and then knelt over her and put his fingers on her neck, seemingly checking for a pulse. At 06:30:37 a.m. Officer Schwaner began chest compressions on Ms. Salomone, while continually checking her neck for a pulse. At 06:32:30 a.m. a NCPD ambulance arrived and Officer Schwaner repeatedly told the paramedics that Ms. Salomone ran "full speed" across the intersection in front of him. Officer Schwaner continued chest compressions until 06:34:20 a.m., when the paramedics assumed medical care.

Officer Interviews

Officer Michael Schwaner

OSI interviewed Officer Schwaner in the presence of his attorney, and he said that on November 22, 2024, he began his shift at 6:00 a.m. out of the Morrelly Center (the Morrelly Homeland Security Center, 510 Grumman Road West, Bethpage, NY) due to ongoing construction at the NCPD Highway Patrol Bureau base location, and that he and Officer Beatty departed the Morrelly Center to head to their base. According to Officer Schwaner, he did not activate the car's turret lights or sirens as they were not responding to an emergency.

Officer Schwaner said that as he drove on Wantagh Avenue Ms. Salomone “darted out in front of [him] from the left lane.” Officer Schwaner said he did not see Ms. Salomone before the collision, that he saw her upon impact, and therefore could not apply the brakes before hitting her. He said he was traveling in the southbound lane when Ms. Salomone appeared from his left, and that she had to have crossed the two northbound lanes before she entered his lane and was struck by the front driver’s side of the car. After the collision Officer Schwaner called for an ambulance, checked Ms. Salomone’s vitals for signs of life, and commenced chest compressions and cardiopulmonary resuscitation (CPR). Officer Schwaner said Ms. Salomone did not show any signs of life and that he continued life-saving measures until the ambulance arrived. Officer Schwaner said that prior to the collision he was traveling about 45 mph, that he proceeded through the intersection through a green traffic signal, and that while the lighting and weather conditions were dark and rainy, his visibility was not impaired by the weather conditions. When asked by OSI whether his view of the Wantagh Avenue and Duckpond Drive N intersection was limited as he traveled across the Wantagh Avenue overpass over the Southern State Parkway before arriving at Duckpond Drive N, Officer Schwaner said that it was not and that the overpass provided him with “a birds eye view” of the intersection.

Officer Craig Beatty

OSI interviewed Officer Beatty in the presence of his attorney, and he said that on November 22, 2024, at 6:10 a.m., he and his partner, Officer Schwaner, were assigned to “motor carrier inspections” and were traveling southbound on Wantagh Avenue from Grumman Studios/Morrelly Center to the NCPD Highway Patrol Bureau base when their police car struck Ms. Salomone after she walked in front of their car. Officer Beatty said the first time he saw Ms. Salomone was when she was struck by their car. After the collision Officer Beatty requested an ambulance while Officer Schwaner rendered medical aid to Ms. Salomone. According to Officer Beatty, it was dark and raining at the time of the collision, and their turret lights and sirens were off as they were not responding to an emergency.

Post-Collision Investigation

Sobriety Tests

According to BWC, at 8:24 a.m., while inside a hospital patient room, Officer Schwaner was tested with a Preliminary Breath Test (PBT) device. (A PBT device is a handheld initial assessment tool which tests blood alcohol content by analyzing a breath sample.) The BWC showed that the PBT device displayed a reading of 0.00% blood alcohol content.

Speed Estimate

OSI obtained the Automated Vehicle Location (AVL) activity report for the involved police Suburban. (NCPD’s AVL system tracks NCPD vehicle location, including speed, at 5-to-6

second intervals, based on global positioning system signals). The AVL showed that, at 6:26:17 a.m., the car was traveling 35 mph on Wantagh Avenue between the northern outlet of Lea Ann Terrance and Duckpond Drive N. The distance between the Lea Ann Terrance outlet and Duckpond Drive N is 148 feet.

Police Officer Schwaner's Phone Records

OSI subpoenaed Officer Schwaner's cellular phone records. A review of the records indicated that Officer Schwaner was not using his cellular phone prior to the collision.

Crime Scene Investigation

NCPD Officer Daniel Bilz and NCPD Detectives Natalie Coppola and Anthony Rempel of the Crime Scene Section responded to the collision scene, took photographs, and created a diagram documenting the scene, including those below:



Crime Scene Section photo of the involved NCPD Suburban.





Three Crime Scene Section photos showing the police car with visible front end and hood damage



Crime Scene Section photo showing Wantagh Avenue, looking south, and the approximate point of impact, as indicated by Marker "1."



Two Crime Scene Section photos showing the approximate final resting place of Ms. Salomone after the collision, as indicated by Marker "2."



Crime Scene Section photo looking north on Wantagh Avenue, showing the approximate point of impact, as indicated by Marker "1," and the final resting place of Ms. Salamone after the collision, as indicated by Marker "2."

POLICE DEPARTMENT - COUNTY OF NASSAU, N.Y.
CRIME SCENE SEARCH SECTION
SERIOUS / FATAL CRASH DIAGRAM


 NORTH

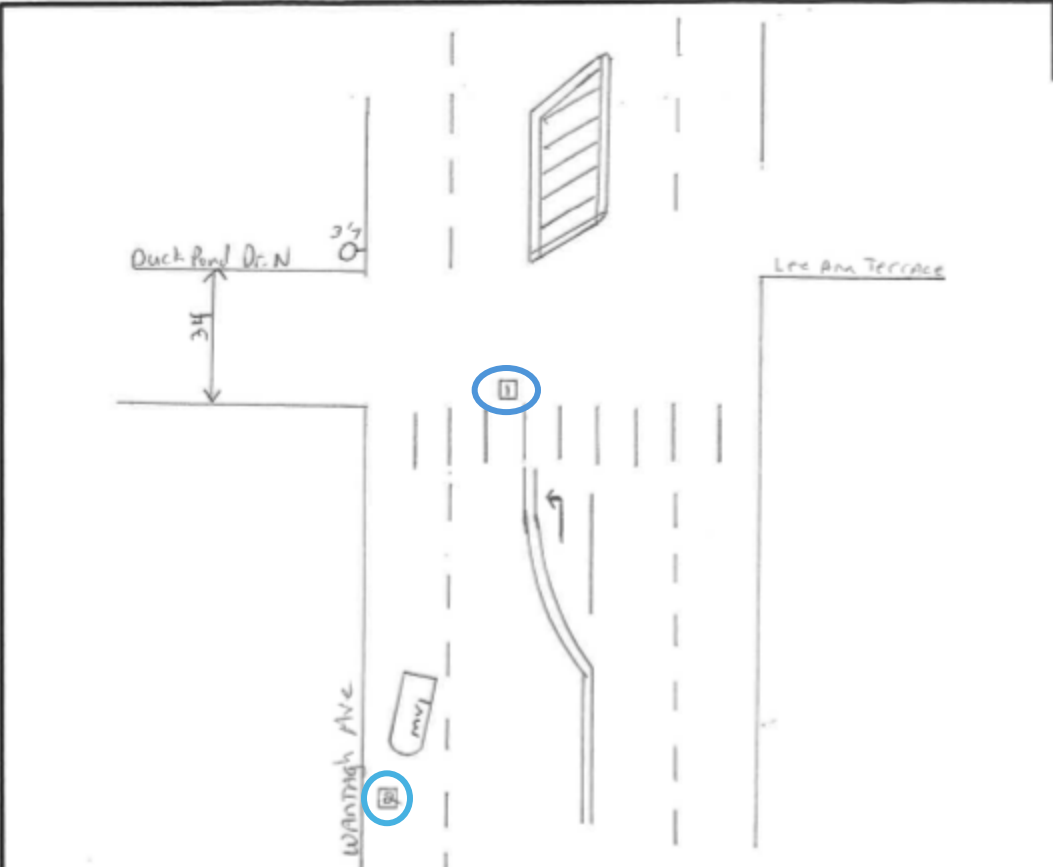


Diagram labels: Duck Pond Dr. N, 34', 3'5", Wantagh Ave, Lee Ann Terrace, mv1, 1, 2.

CASE# 224CR407847 HOM# H-848-24
 DATE 11/22/24 TIME 1100 WEATHER cloudy
 LOCATION Wantagh Ave @ Duck Pond Dr. N
 TOWN Wantagh
 R.P. Pole 101
 ROAD SURFACE Asphalt CONDITION Wet
 INCIDENT TYPE vehicle Pedestrian
 DRAWN BY DET Rempel

ILLUSTRATION PURPOSES ONLY NOT DRAWN TO SCALE			
SPOT	N/S	E/W	
MV1 PB	222	S	6'7" E
MV1 DB	222'9	S	13'6" E
MV1 PF	232	S	5'7" E
MV1 OF	232'10	S	12' E
MB1	55	S	26'5" E
MK2	259	S	8' E

Crime Scene Section diagram of the post-collision scene. Marker "1" indicates approximate point of impact. Marker "2" indicates approximate final resting place.

Medical Treatment and Autopsy

Medical Response On-Scene

According to the NCPD Patient Care Report (PCR), NCPD paramedics Salvatore Ferro and David Reed responded to the scene at 6:32 a.m. The PCR narrative read, "Upon making patient contact I observed patient lying supine in the roadway with multi-system traumatic injuries secondary to being struck by a vehicle. Patient is unconscious/unresponsive/apneic/pulseless, initial visual assessment revealed deformities to all 4 extremities and bleeding from the head/face/mouth." Ms. Salomone was ventilated and, at 6:46 a.m., transported to Nassau University Medical Center. At 6:53 a.m., Ms. Salomone arrived at Nassau University Medical Center, where medical care was transferred to the emergency department staff.

Autopsy

Dr. Brian O'Reilly of the Nassau County Medical Examiner's Office conducted an external examination of Ms. Salomone and determined that the cause of Ms. Salomone's death was "blunt force trauma to head, neck, torso and extremities" and deemed the manner of death to be "accident."

LEGAL ANALYSIS

Under Penal Law Section (PL) 125.10, "A person is guilty of criminally negligent homicide when, with criminal negligence, he causes the death of another person." Criminal negligence is defined in PL 15.05(4): "A person acts with criminal negligence with respect to a result [e.g., death] ... when he fails to perceive a substantial and unjustifiable risk that such result will occur The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation."

In a series of decisions, the New York Court of Appeals has required prosecutors to establish criminal negligence in fatal vehicular cases with evidence not clearly implied in the statutory definition. Under these decisions, proof of the defendant's failure to perceive the risk of death is not sufficient to convict him or her of criminally negligent homicide, even if the failure is a "gross deviation" from a reasonable standard of care. Rather, the prosecutor must also prove that the defendant committed an "additional affirmative act" or engaged in "risk-creating behavior" amounting to "seriously blameworthy carelessness." *People v Cabrera*, 10 NY3d 370 (2008); *People v Boutin*, 75 NY2d 692 (1990).

In *Cabrera*, the Court reversed a conviction of criminally negligent homicide based on the defendant driver's excessive speed, saying "it takes some additional affirmative act by the defendant to transform speeding into dangerous speeding; conduct by which the defendant

exhibits the kind of seriously blameworthy carelessness whose seriousness would be apparent to anyone who shares the community's general sense of right and wrong.” *Cabrera*, 10 NY3d at 377, citing *Boutin*, 75 NY2d at 696 (internal quotation marks omitted; emphasis added). The Court continued:

“Thus, in the cases where we have considered the evidence sufficient to establish criminally negligent homicide, the defendant has engaged in some other ‘risk creating’ behavior in addition to driving faster than the posted speed limit (**compare** *People v Haney*, 30 N.Y.2d 328 [defendant was speeding on city street and failed to stop at red light before killing pedestrian crossing street with green light in her favor]; *People v Soto*, 44 N.Y.2d 683 [defendant, who was speeding and drag racing on city street, struck and killed driver stopped at red light]; *People v Ricardo B*, 73 N.Y.2d 228 [defendant was drag racing at between 70 and 90 miles per hour on a busy metropolitan street, ran a red light and struck vehicle crossing intersection with light in its favor]; *People v Loughlin*, 76 N.Y.2d 804, 807 [intoxicated defendant was speeding on obstructed street under construction in residential neighborhood in Queens]; *People v Maker*, 79 N.Y.2d 978, 980 [intoxicated defendant drove at speeds of 50 to 100 miles per hour in 35 miles per hour zone in Manhattan, disobeying several traffic signals]; *People v Harris*, 81 N.Y.2d 850, 851-852 [‘defendant, while legally intoxicated, drove his motor vehicle in the dark of night from a public highway into an unfamiliar farmer’s field, accelerated at times to a speed approximating 50 miles per hour, intermittently operated the vehicle without headlights, and suddenly and forcefully drove through a hedgerow of small trees and shrubs, not knowing what obstacles and dangers lurked on the other side’]; *People v Ladd*, 89 N.Y.2d 893, 894-895 [intoxicated defendant driving on wrong side of a foggy road at 4:30 A.M.], **with** *People v Perry*, 123 A.D.2d 492, 493 [4th Dept 1986], *affd* 70 N.Y.2d 626 [no criminal negligence present where defendant was driving approximately 80 miles per hour in a 55 miles per hour zone ‘on a rural road, on a dark night,’ struck a utility pole, and killed two passengers; defendant’s ‘conduct . . .d(id) not constitute a gross deviation from the ordinary standard of care held by those who share the community’s general sense of right and wrong’ (citations omitted))]. The question [is whether the conduct] constituted ‘not only a failure to perceive a risk of death, but also some serious blameworthiness in the conduct that caused it’ (*Boutin*, 75 N.Y.2d at 696).”

Cabrera, at 377-378, emphasis added, all material in square brackets in original.

In *People v Badke*, 21 Misc3d 471 (Suffolk Co Ct 2008), the court dismissed criminally negligent homicide counts, finding insufficient the grand jury evidence that defendant drove at excessive speed with passengers in his car, collided with another vehicle, and caused the deaths of three passengers. The court said, “Criminal negligence requires some additional affirmative act by the defendant to transform speeding into dangerous speeding, that is, conduct by which the defendant exhibits the kind of seriously blameworthy carelessness

whose seriousness would be apparent to anyone who shares the community's general sense of right and wrong." 21 Misc3d at 476.

The evidence in this investigation does not meet the standard the courts have set for proof of dangerous speeding or other "seriously blameworthy conduct." Examples of "dangerous speeding" include running a red light while racing another car on a busy city street, *People v Ricardo B*, 73 NY2d 228 (1989); driving drunk in Manhattan while going 25 to 50 mph over the speed limit and disobeying traffic signs, *People v Maher*, 79 NY2d 978 (1989); and driving through a red light at 52 miles per hour, *People v Haney*, 30 NY2d 328 (1972). In contrast, in *People v. Perry*, 23 AD2d 492 (4th Dept 1986), affd, 70 NY2d 626 (1987), a court overturned a conviction where the defendant was driving at night and going 25 mph over the speed limit on a rural road when he struck a utility pole and killed a passenger, holding that such "conduct d[id] not constitute a gross deviation from the ordinary standard of care held by those who share the community's general sense of right and wrong." Similarly, in *People v Badke*, 21 Misc3d 471, 477-78 (Suffolk Co Ct 2008), a court dismissed an indictment when the evidence failed to show "any other factor in addition to speed [that] convert[ed] Mr. Badke's actions to dangerous speeding."

Like *Badke* and *Perry*, the evidence does not establish that Officer Schwaner's speed was "dangerous speeding," as his speed was estimated to be 35 mph prior to the collision, in a 40 mph roadway.

Based on the investigation, OSI concludes that a prosecutor would not be able to prove beyond a reasonable doubt that Officer Schwaner committed a crime when he caused Ms. Salomone's death. As a result, OSI will not present this case to a grand jury for consideration of criminal charges and closes the matter with the issuance of this report.

RECOMMENDATION

OAG recommends that all police agencies hold police officers to the same standards as civilians and ask them to submit to a preliminary breath test at the scene as quickly as practicable after a motor vehicle collision, as authorized by Section 1194(1)(b) of the Vehicle and Traffic Law. If the PBT is positive for the presence of alcohol, the agency should have the involved officer perform field sobriety tests to assess their physical and mental abilities, promptly followed by a chemical test of their blood or breath, if there is an arrest.

Additionally, when the collision results in serious physical injury or the death of another person, police agencies should ask the involved officer to voluntarily consent to toxicology testing. If the officer consents, the agency should take all necessary steps to secure the blood sample in a timely fashion, as close in time to the collision as possible.

Alcohol is metabolized in the body at an average rate of 0.015g/100mL/hour, which means the average person's blood alcohol level falls by 0.015 of one per centum per hour. For men,

this rate is equivalent to about one standard drink per hour. Although there is no basis to believe that Officer Schwaner had alcohol in his system, if he had, the delay of two hours in obtaining his blood alcohol sample would have had a significant effect on the results of the testing.

OAG therefore recommends that all patrol officers and supervisors be trained in the administration of the PBT and field sobriety tests so that they can test any on-duty or off-duty police officer (or any civilian) involved in a motor vehicle collision on scene as soon as practicable to determine with greater accuracy whether they were operating a vehicle while impaired by alcohol.

If the involved police officer (or civilian) does not voluntarily consent to toxicology testing, the agency should seek a court order to compel a chemical test pursuant to Vehicle and Traffic Law Section 1194(3), provided there is a sufficient legal basis to do so.

Dated: September 29, 2025